



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,213	10/22/2003	Alfons Resing	09197-US	8365
30689	7590	08/04/2006	EXAMINER	
DEERE & COMPANY ONE JOHN DEERE PLACE MOLINE, IL 61265			KOVACS, ARPAD F	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/691,213	Applicant(s) RESING ET AL.	
	Examiner Árpád Fábíán Kovács	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-24 is/are allowed.
- 6) ☒ Claim(s) 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 5/12/2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Examiner indicated in response, dated 10/28/2004, that EP 0369440 had "No Copy" which prior art is cited in the European Search Report, as well. Applicant as of this date has not addressed this matter and has not provide a legible copy of each cited foreign patent document as required by 37 CFR 1.98(a)(2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Bich et al (part of the record).

Bich discloses as shown below:

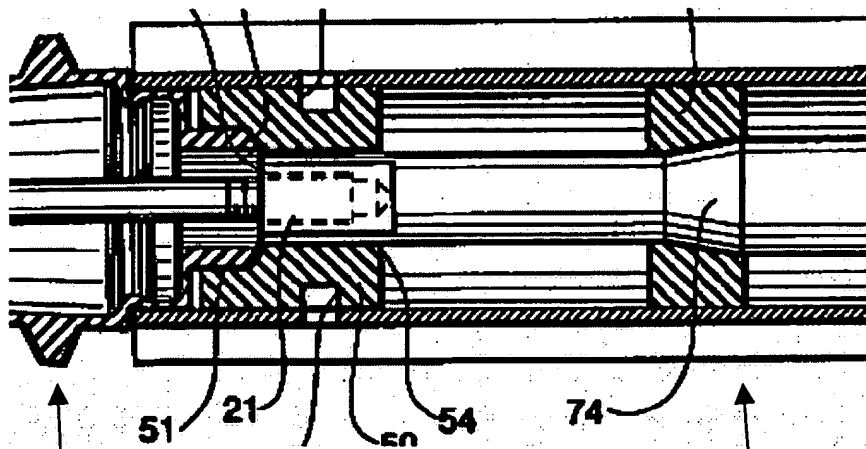
a roll body (starting at front auger ref 30 and ends at rear end of stalkroll ref 40),
drivers (unnumbered driver at auger 30, and flutes ref 43);

driver inner edge is adjacent the boy (see fig 3);

body front end diameter is greater than the rear end diameter of the body (see fig 3,
the rear edge of auger 30 is slightly higher than the body 40);

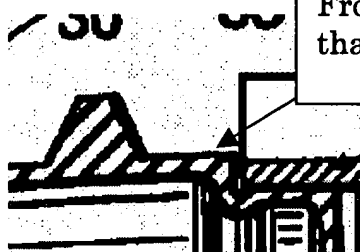
the driver front end diameter is less than the rear diameter (see unnumbered front
driver is slightly below the rear driver 43).

Art Unit: 3671



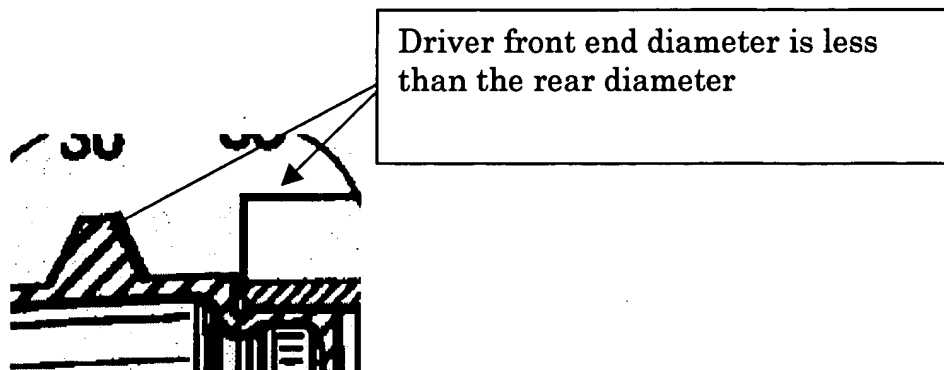
Stalk roll's
front of the
roll

Rear end of
the roll



Front body's diameter is greater
than the rear body

Art Unit: 3671



Allowable Subject Matter

4. Claims 19-24 are allowed.

Response to Arguments

5. Applicant's arguments filed 7/24/2006 have been fully considered but they are not persuasive.

In response to Applicant's statements on pages 2-3:

Applicant referenced "710.06" titled as **710.06 [R-3] Situations When Reply Period Is Reset or Restarted**. Excerpt of the pre-mentioned MPEP section is as follows:

" Where the citation of a reference is incorrect or an Office action contains some other *>error that affects applicant's ability to reply to the Office action< and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new

period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP §707.05(g) for the manner of correcting the record where there has been an erroneous citation.”

Applicant has not called to the attention of the Office within 1 month of the mail date of the action, instead called the Examiner on 6/11/2006 (Monday), at the end of expiration of the 3 month response date of the non-final Office action, dated 3/10/2006.

However, the examiner acknowledges the fact that the applicant successfully convinced Director Hajec that Bich et al was not cited in form PTO-892. The later is incorrect. Bich et al was cited on PTO-892 on 6/1/2004. Applicant did not contest that the pre-mentioned PTO-892 has not been received or lost.

Applicant argued that, although, as established above, the reference was correctly cited in PTO-892, “applicant’s ability to reply to the Office action” was prevented. The purported typo “6” was inadvertently typed instead of “5”, in the Office action, thus not in form PTO-892. Although, the use of patent number in the Office action

is not a requirement, but it has been the practice of the Examiner to save applicant time looking through the PTO-892 forms and/or IDS, nevertheless the Applicant felt confused. The pre-mentioned practice has been stopped to avoid such inadvertent confusion in the future.

Applicant did not review PTO-892 form(s), instead the applicant searched for Bich at al issued US patents. Applicant stated that approx. 250 issued patents were found. In fact there are 84 issued US patents as of date.

In conclusion, the applicant set forth groundless arguments in support of resetting response time to the pre-mentioned non-final Office action.

In response to Applicant's arguments on pages 2-3:

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

The preamble of the claim, that is not relied on patentability purposes,

recites “A stalk roll for a harvesting device for harvesting a crop head from a stalk of a plant,” from this it is clear that the claim is not limited to the applicant’s figure 3. However, it is noted that the “stalk roll” of the prior art is capable of “for a harvesting device for a harvesting a crop head from a stalk of a plant.” The “stalk roll” of the prior art includes at least a portion of the auger (30) and at least part of the stalk roll. Applicant’s observation that the “stalk roll” of the prior art is made up of two parts, is not relevant in view of what is actually claimed. Furthermore, it is noted in view of Applicant’s argument, however **not applicable** in re what is actually claimed, it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). Again it is emphasized that the claim **does not set forth one piece element**.

Applicant argued that the stalk roll “have the same diameter in the front as the back.” It is incorrect. It is for that reason the examiner included screenshots in the Office action to show this design aspect.

Applicant argued that stalk roll “does not appear to change.” Applicant is requested to provide proof of such recitation in the claim.

Examiner’s response is considered part of the Final Rejection of claim 18.

Conclusion

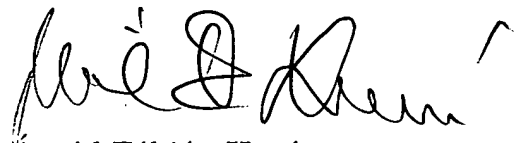
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK